IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 260 OF 2002

IN

SUIT NO. 297 OF 2002

Mahesh Parikh .. Plaintiff

versus

S.B. Khare & ors. .. Defendants

...

Mr.D.V. Merchant i/b Shah & Sanghvi for the plaintiff.

Mr.B.G. Saraf for the defendant no.1.

Mr.S.K. Chinchlikar for the defenant no.5.

None for the defendant nos.2 to 4.

CORAM : D.G. KARNIK,J.

DATED : 17th February 2005.

P.C.:

1. Heard the learned counsel for the plaintiff

and defendant no.1. None present for the defendant nos.2 to 4. The learned counsel for the defendant no.5 reports no instructions.

2. Motion was filed originally by the plaintiffs restraining the defendant nos.1 to 4 from disposing of the suit property or creating any third party rights therein. Previously, the learned counsel for the defendant no.1 stated that property had already been transferred to defendant no.5 and thereupon the motion was amended and defendant no.5 was joined as a party to the suit as well as to the motion. In view of these subsequent events, the learned counsel for the plaintiff presently restrains the motion for the purpose of claiming of a relief of injunction restraining the defendant no.5 from further transferring the property or creating any further 3rd party interest.

3. The defendant no.5 has not filed any affidavit in reply. He is not present in person and his counsel reports no instructions. In the circumstances, I see no reason to decline the relief claimed for by the plaintiff presently. Hence, I pass the following order:-

4. The defendant no.5 is restrained by an injunction from selling, transferring, alienating, parting with possession or creating any third party interest described in Exhibit-A to the plaint, till the disposal of the suit.

5. Motion disposed of.

D.G. KARNIK, J